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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: SUR-3645

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|----------------------------|---|--------------------|
| In re Application of: |) | Art Unit: 1724 |
| |) | |
| Richard SMITH |) | Examiner: C. BARRY |
| |) | |
| Serial No.: 09/662,507 |) | Confirmation No. |
| |) | |
| Filed: September 14, 2000 |) | Washington D.C. |
| |) | |
| For: SMALL-SCALE HYDROGEN- |) | October 2, 2001 |
| OXIDIZING-DENITRIFYING |) | |
| BIOREACTOR |) | |

RESPONSE TO RESTRICTION REQUIREMENT

Honorable Commissioner for Patents
Washington, D.C. 20231

In response to the Office Action of August 2, 2001, for which a one month extension of time to respond is hereby requested, please enter the following response:

The Office Action of August 2, 2001, in the nature of a requirement for restriction, has been carefully reviewed. Favorable consideration is respectfully requested.

Restriction has been required between what the Examiner considers to be two patentably distinct inventions, namely,

Group I directed to a process, presently comprising claims 1-4; and

Group II, drawn to a treatment apparatus, presently comprising claims 5-8.

Applicants hereby provisionally elect, with traverse and without prejudice, claims 1-4, Group I, directed to a process.

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In re Appl. No. 09/662,507

This restriction requirement is traversed on the basis of MPEP Section 803, second paragraph, which requires that there be a substantial burden in examining plural groups, even if the restriction requirement is otherwise correct. In the present case, searching and examination of the process would also turn up patents or apparatus useful in practicing the process. Since there appears to be no serious burden, the restriction requirement should be withdrawn, and such is respectfully requested.

If the restriction requirement is maintained, it will be clear on the record that the PTO considers the two groups to be patentably distinct from one another *i.e.*, *prima facie non-obvious* from one another. This means that a reference identical to the one group would not render the other group *prima facie* obvious.

Favorable consideration is respectfully requested.

Respectfully submitted,

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